

## § 194.21

A wine product containing less than one-half of one percent alcohol by volume is not taxable as wine when removed from the bonded wine premises.

(26 U.S.C. 7805 (68A Stat. 917, as amended) 27 U.S.C. 205 (49 Stat. 981, as amended))

[T.D. ATF-48, 43 FR 13541, Mar. 31, 1978, as amended by T.D. ATF-50, 43 FR 37180, Aug. 22, 1978; 44 FR 55843, Sept. 28, 1979; T.D. ATF-62, 44 FR 71693, Dec. 11, 1979; T.D. ATF-114, 47 FR 43949, Oct. 5, 1982; T.D. ATF-344, 58 FR 40355, July 28, 1993]

### Subpart C—Special (Occupational) Taxes

#### § 194.21 Basis of tax.

Special taxes are imposed on persons engaging in or carrying on the business or occupation of selling or offering for sale alcoholic liquors fit for use as a beverage or any alcoholic liquors sold for use as a beverage. The classes of liquor dealer business on which special occupational tax is imposed and the conditions under which such tax is incurred are specified in §§ 194.23 through 194.26. No person shall engage in any business on which the special tax is imposed until he has filed a special tax return as provided in § 194.26 of this part and paid the special tax for such business.

(72 Stat. 1346; 26 U.S.C. 5142)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-271, 53 FR 17552, May 17, 1988]

#### § 194.22 Selling or offering for sale.

Whether the activities of any person constitute engaging in the business of selling or offering for sale is to be determined by the facts in each case, but any course of selling or offering for sale, though to a restricted class of persons or without a view to profit, is within the meaning of the statute.

#### DEALERS CLASSIFIED

#### § 194.23 Retail dealer in liquors.

(a) *General.* Every person who sells or offers for sale distilled spirits, wines, or beer to any person other than a dealer is, except as provided in paragraph (b) of this section, a retail dealer in liquors. Every retail dealer in liquors shall pay special tax at the rate

## 27 CFR Ch. I (4–1–03 Edition)

specified in § 194.101 for such dealer, unless such dealer is exempt from such special tax as provided in paragraph (c) of this section.

(b) *Persons not deemed to be retail dealers in liquors.* The following persons are not deemed to be retail dealers in liquors within the meaning of 26 U.S.C. Chapter 51, and are not required to pay special tax as such dealer:

(1) A retail dealer in beer as defined in § 194.25,

(2) A limited retail dealer as specified in § 194.27, or

(3) A person who only sells or offers for sale distilled spirits, wines, or beer as provided in § 194.188 through § 194.190 or § 194.191(a).

(c) *Persons exempt from special tax.* The following persons are exempt from special tax as retail dealers in liquors:

(1) A wholesale dealer in liquors selling or offering for sale distilled spirits, wines, or beer, whether to dealers or persons other than dealers, at any place where such wholesale dealer in liquors is required to pay special tax as such dealer.

(2) A wholesale dealer in beer selling or offering for sale beer only, whether to dealers or persons other than dealers, at any place where such wholesale dealer in beer is required to pay special tax as such dealer, or

(3) A person who is exempt from special tax under the provisions of §§ 194.181–194.184, 194.187, or 194.187a.

(72 Stat. 1340, 1343, 1344; 26 U.S.C. 5113, 5121, 5122)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55843, Sept. 28, 1979; T.D. ATF-271, 53 FR 17552, May 17, 1988]

#### § 194.24 Wholesale dealer in liquors.

(a) *General.* Every person who sells or offers for sale distilled spirits, wines, or beer to another dealer is, except as provided in paragraph (b) of this section, a wholesale dealer in liquors. Every wholesale dealer in liquors is required to pay special tax at the rate specified in § 194.101 for such dealer, unless such dealer is exempt from such special tax as provided in paragraph (c) of this section.

(b) *Persons not deemed to be wholesale dealers in liquors.* The following persons are not deemed to be wholesale dealers